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VIA HAND DELIVERY

Ms. Magalie R. Salas
Secretary
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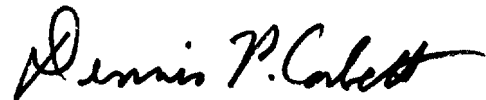
Re: **Joint Petition for Rule Making**

Dear Ms. Salas:

On behalf of Davis Television Corpus Christi, LLC, Humberto Lopez, Marri Broadcasting, L.P., Minority Media TV38, L.L.C., Paloma Broadcasting Company, Inc., Prime Broadcasting Company, Patricia Card Smith and Sunbelt Broadcasting Company, I am transmitting herewith an original and four copies of a Joint Petition for Rule Making seeking to amend the Television Table of Allotments to specify Channel 53 in lieu of Channel 38, at Corpus Christi, Texas, under the circumstances specified therein.

Should there be any questions concerning this matter, please contact the undersigned.

Very truly yours,



Dennis P. Corbett

RGG:rg
Enclosures

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LEVENTHAL, SENTER & LERMAN P.L.L.C.

Ms. Magalie R. Salas

July 17, 2000

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cc (w/encl.): William H. Crispin, Esq.
Vincent J. Curtis, Esq.
Daniel J. Davis, Esq.
John E. Fiorini, III, Esq.
Mr. Humberto Lopez
J. Dominic Monahan, Esq.
Suren Naidoo, Esq.
Benjamin Perez, Esq.
Mr. Gerald R. Proctor
Mr. John Myrl Warren

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C. 20554

In the Matter of)
)
Amendment of Section 73.606(b)) RM _____
Television Table of Allotments)
(Corpus Christi, Texas))

**To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau**

JOINT PETITION FOR RULE MAKING

Davis Television Corpus Christi, LLC, Humberto Lopez, Marri Broadcasting, L.P., Minority Media TV38, L.L.C., Paloma Broadcasting Company, Inc., Prime Broadcasting Company, Patricia Card Smith and Sunbelt Broadcasting Company (the “Petitioners”), who are all of the mutually exclusive applicants for a construction permit for a new television station at Corpus Christi, Texas, on Channel 38, pursuant to the provisions of Section 1.401 of the Commission’s Rules and pursuant to the Commission’s Public Notice, DA 99-2605, released November 22, 1999 (“November 22 Notice”) as extended by Public Notice, DA 00-536, released March 9, 2000 (“March 9 Notice”), hereby request that, to the extent necessary (as explained below), the Commission institute a rule making proceeding to amend Section 73.606(b), the Television Table of Allotments, by substituting Channel 53 in lieu of Channel 38.

This universal Petition is being filed in response to the Commission’s opening of a filing window (the “Filing Window”), on November 22, 1999, within which pending NTSC applicants, such as Petitioners, at locations inside the “TV Freeze Areas” (as defined in the

November 22 Notice) have been given an opportunity to amend their applications or seek substitute allotments as necessary to adapt to channel allotments made by the Commission as part of the ongoing FCC effort to effect a conversion of the United States television industry from NTSC to digital (“DTV”). See November 22 Notice. The closing date for that window was subsequently extended from March 17, 2000 to July 15, 2000. See March 9 Notice.^{1/}

In establishing the Filing Window, the Commission also noted its then pending rule making proceeding to establish a new Class A service and put NTSC applicants on notice that if new Class A stations were ultimately given priority over pending NTSC applications, the NTSC applications could be dismissed. November 22 Notice at 2. In extending the Filing Window’s closing date, the FCC noted the pendency of its Class A rulemaking as mandated by Congress (MM Docket 00-10) as a justification for the extension. March 9 Notice at 1-2. This Petition results from Petitioners’ review of the published list of LPTV stations certified as eligible for Class A status. See Public Notice, DA 00-1224, released June 2, 2000 (“June 2 Notice”). In light of: (i) a conflict between NTSC full power Channel 38 at Corpus Christi and an LPTV station on the Class A eligible list (described below), (ii) the impending closing of the Filing Window in which the potential for conflict with Class A stations was expressly acknowledged, and (iii) the Commission’s decision in MM Docket No. 00-10 not to protect

^{1/} Because July 15, 2000 falls on a Saturday, the Filing Window closes on July 17, 2000. See 47 C.F.R. § 1.4(j).

pending NTSC applications against the new Class A stations,^{2/} Petitioners believe the most prudent course is for them to file this protective Petition before the close of the Filing Window.

Nicolas Communications Corporation (“Nicolas”), licensee of LPTV station K45DB, Channel 45, Corpus Christi, Texas, has filed a Certificate of Eligibility for Class A status that was accepted by the Commission in the June 2 Notice.^{3/} If Nicolas files an application for Class A status which is granted by the Commission, K45DB’s Class A status will conflict with operation of a full-power NTSC station on Channel 38 at Corpus Christi, under the Commission’s UHF taboo rules. See Engineering Statement of Bernard R. Segal, P.E. (the “Engineering Statement”) at 2, attached hereto as Exhibit A. Although it is not certain whether Nicolas will be awarded a Class A license, its potential grant makes the filing of this protective Petition necessary.^{4/} Petitioners therefore request that this Petition be released for comment if and when K45DB is awarded a Class A license.

The Engineering Statement establishes that the Petitioners’ proposal is in full accord with all applicable coverage and allocation criteria set forth in the Commission’s rules. Channel 53 may be allotted for NTSC use without creating any new interference to any NTSC or

^{2/} The FCC has been asked to reconsider this decision not to protect NTSC applications.

^{3/} Petitioners note that the Commission’s initial acceptance of another conflicting Certificate of Eligibility for Channel 38 at Kingsville-Alice, Texas (K38EB), has been rescinded. See June 23, 2000 Letter from Barbara A. Kreisman, Chief, Video Services Division, Mass Media Bureau, to Elizabeth A. McGeary, Esq.

^{4/} While the timing of the filing of this Petition is somewhat unusual due to the still uncertain Class A fate of K45DB, Petitioners do not want to face an argument that they failed to do everything possible within the Filing Window period to preserve this important full-power allotment in the face of the new reality of the Class A service.


DTV facilities. See Engineering Statement at 3. The proposed allotment satisfies all Commission criteria with respect to NTSC and DTV station protection. See Engineering Statement at 3-4. As required by the Commission's rules, all of Corpus Christi is included within the calculated Principal City Grade Contour of Channel 53, as proposed. See Engineering Statement at 4.

If K45DB is granted Class A status and this Petition is granted, Petitioners will timely file amendments to their applications for Channel 38 specifying operation on Channel 53 and, if granted, will adhere to all applicable Commission standards for the construction and operation of the facility. If K45DB is not granted Class A status and no other Class A-related conflicts have arisen, this Petition will become moot and will be withdrawn by Petitioners, leaving them free to prosecute their respective applications for Channel 38, at Corpus Christi.

THEREFORE, for the reasons set forth above, to the extent necessary under the circumstances set forth above, a rule making proceeding should be instituted proposing the amendment of Section 73.606(b) of the Commission's Rules to substitute Channel 53 for Channel 38 at Corpus Christi in the Television Table of Allotments.

Respectfully submitted,

DAVIS TELEVISION CORPUS CHRISTI, LLC

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Its Attorneys

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Humberto Lopez

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THEREFORE, for the reasons set forth above, to the extent necessary under the circumstances set forth above, a rule making proceeding should be instituted proposing the amendment of Section 73.606(b) of the Commission's Rules to substitute Channel 53 for Channel 38 at Corpus Christi in the Television Table of Allotments.

Respectfully submitted,

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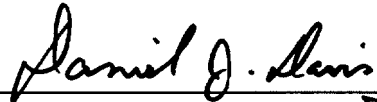
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July 17, 2000

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July 17, 2000

EXHIBIT A

Bernard R. Segal, P.E.
Consulting Engineer
Washington, DC

**ENGINEERING STATEMENT
PREPARED ON BEHALF OF
DAVIS TELEVISION CORPUS CHRISTI, LLC
CORPUS CHRISTI, TEXAS**

This Engineering Statement has been prepared on behalf of Davis Television Corpus Christi, LLC (hereafter, Davis), the applicant in BPCT-19960920YW for a new NTSC television facility at Corpus Christi, Texas. The undersigned understands that the instant Engineering Statement will support a Joint Petition for Rulemaking to amend the NTSC Table of Allotments, Section 73.606, to specify Ch. 53z at Corpus Christi, Texas, in lieu of Ch. 38+, to be filed by all pending applicants for Ch. 38+ at Corpus Christi.

The Public Notice of November 22, 1999, DA99-2605, made clear that a Petition for Rulemaking for a replacement NTSC allotment with a DTV related basis would be entertained, but that Public Notice also noted the future potential for conflict with a new Class A TV service then being considered by the Commission. In the present instance, no DTV related basis exists. However, a Class A LPTV related problem has the potential for rendering the existing Corpus Christi, Ch. 38+, allotment unusable.

Bernard R. Segal, P.E.
Consulting Engineer
Washington, DC

Engineering Statement
Davis Television Corpus Christi, LLC
Channel 53z, Corpus Christi, Texas

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Station K45DB, Corpus Christi, Ch. 45 has been certified as eligible for Class A status. Station K45DB is only 25.3 kilometers from the Davis Corpus Christi, Ch. 38+ site. The FCC Rules require a minimum separation of 100 kilometers. Thus, if station K45DB ultimately achieves Class A status, Corpus Christi NTSC Ch. 38+ would be unusable. Hence, to the extent necessary, a waiver of the DTV related constraint in the DA99-2605 Public Notice is requested for this protective Petition for Rulemaking. The proposed Ch. 53z allotment is for operation from the same site as is specified in an amendment being submitted to Davis' Ch. 38+ application. All separation requirements of Section 73.610 of the Rules are satisfied on Ch. 53z as is demonstrated in Exhibit No. 1. The same conclusions would prevail for any of the other Ch. 38+ application sites.

The proposed allotment is for operation with peak visual effective radiated power of 5000 kW with antenna radiation center height above average terrain of 297 meters. As is apparent from Exhibit No. 1, no NTSC station is sufficiently close to warrant detailed study to establish whether new interference will be created. Exhibit No. 2 is a detailed study for the only DTV allotment that is close enough to warrant review in that regard. As

Bernard R. Segal, P.E.
Consulting Engineer
Washington, DC

Engineering Statement
Davis Television Corpus Christi, LLC
Channel 53z, Corpus Christi, Texas

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demonstrated in Exhibit No. 2, the DTV facility of interest will not be caused new interference by the proposed Corpus Christi allotment. The same conclusion would prevail for similar facilities at any of the other Ch. 38 application sites.

The study of Exhibit No. 2 was performed using a FCC matched computer analysis taking into account all allocation factors. A computer using an Alpha processor was employed in conjunction with the FCC's FLR software. For the target desired station that was studied, the reference information from Appendix B of the Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order in MM Docket Number 87-268 is listed in Exhibit No. 2 for comparison with the results obtained independently using the Alpha processor with the FCC's FLR software. The independently determined calculation results are in reasonable agreement with the FCC's Appendix B results.

The initial study was made without consideration of the proposed Ch. 53z Corpus Christi allotment. Afterwards, a second study was performed with the Corpus Christi allotment included. By this means, it was possible to ascertain the impact that the proposed allotment would have on the DTV facility of interest. As demonstrated in Exhibit No. 2, the proposed allotment satisfies all FCC criteria with the respect to DTV station protection.

Exhibit No. 3 identifies the NTSC channels of interest and eligible Class A stations thereon which may be impacted by the proposed Corpus Christi Ch. 53z allotment. The study of Exhibit No. 3 demonstrates that no Class A eligible LPTV station is located on a taboo channel that is of allocation interest for the Corpus Christi Ch. 53z allotment. All eligible Class A stations above Ch. 51 need not be considered since a Class A license will not be issued to any station that operates outside of the Ch. 2 to Ch. 51 core.

The proposed allotment will afford complete encompassment of Corpus Christi by the 80 dBu contour.

Bernard R. Segal, P.E.
Consulting Engineer
Washington, DC

Engineering Statement
Davis Television Corpus Christi, LLC
Channel 53z, Corpus Christi, Texas

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The exhibits presented herein demonstrate the feasibility of the proposed allotment.

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 13, 2000.

A handwritten signature in black ink that reads "Bernard R. Segal, P.E." The signature is written in a cursive style with a large, stylized 'B' and 'S'.

Bernard R. Segal, P.E.

**ENGINEERING STATEMENT
PREPARED ON BEHALF OF
DAVIS TELEVISION CORPUS CHRISTI, LLC
CORPUS CHRISTI, TEXAS**

NTSC Separation Compliance Study

Proposed Ch. 53z Site Reference: 27° 42' 28" N. Lat./97° 37' 59" W. Long.

Ch. Relation- ship	Station or Allotment	Geographic Coordinates (N. Lat./W. Long.)	Distance	
			Required Minimum (km)	Actual (km)
n-15 (38)	Corpus Christi (Misc. Applications)*	---	---	---
n-14 (39)	None sufficiently close for concern	---	---	---
n-8 (45)	None sufficiently close for concern	---	---	---
n-7 (46)	None sufficiently close for concern	---	---	---
n-5 (48)	None sufficiently close for concern	---	---	---
n-4 (49)	None sufficiently close for concern	---	---	---
n-3 (50)	None sufficiently close for concern	---	---	---
n-2 (51)	None sufficiently close for concern	---	---	---
n-1 (52)	None sufficiently close for concern	---	---	---
n-0 (53)	Allotment, Monterey, N.L., Mexico	25° 40' 11" 100° 18' 26"	280	349
n+1 (54)	None sufficiently close for concern	---	---	---
n+2 (55)	None sufficiently close for concern	---	---	---
n+3 (56)	None sufficiently close for concern	---	---	---
n+4 (57)	None sufficiently close for concern	---	---	---
n+5 (58)	None sufficiently close for concern	---	---	---
n+7 (60)	None sufficiently close for concern	---	---	---
n+8 (61)	None sufficiently close for concern	---	---	---
n+14 (67)	None sufficiently close for concern	---	---	---
n+15 (68)	None sufficiently close for concern	---	---	---

Note: n = Channel 53

*These applications would be amended to specify Channel 53.

**ENGINEERING STATEMENT
PREPARED ON BEHALF OF
DAVIS TELEVISION CORPUS CHRISTI, LLC
CORPUS CHRISTI, TEXAS**

DTV Allocation Study
Proposed Corpus Christi, TX, NTSC Allotment
Ch. 53z, 5000 kW (MAX-DA), 297 m
Reference Coordinates: 27° 42' 28" N. Lat./97° 37' 59" W. Long.
RCAMSL: 310 meters

Ch. Relation- ship	Potentially Affected Desired DTV Allotment or Station	<u>Appendix B Data</u>		<u>Independent Calculations</u>				
		Base- line Pop. (Thous.)	DTV Svc. (Thous.)	Noise-free Svc. Not Affected by Terrain (Thous.)	Base- line Pop. (Thous.)	DTV Svc. (Thous.)	New Interf. from Prop. Corpus Christi NTSC Allotment	
n-1 (52)	None sufficiently close for concern	---	---	---	---	---	---	---
n-0 (53)	KWTX-DT, Waco, TX							
	Allotment: Ch. 53, 732 kW (MAX-DA), 552 m	853	853	887	861	861	0	0.0
	Appl: Ch. 53, 732 kW (MAX-DA), 552 m (checklist application)	---	---	---	---	---	---	---
n+1 (54)	None sufficiently close for concern	---	---	---	---	---	---	---

Note: n = Channel 53

**ENGINEERING STATEMENT
PREPARED ON BEHALF OF
DAVIS TELEVISION CORPUS CHRISTI, LLC
CORPUS CHRISTI, TEXAS**

Eligible Class A Station Considerations

Proposed Ch. 53z Site Reference: 27° 42' 28" N. Lat./97° 37' 59" W. Long.

Ch. Relation- ship	<u>Station or Allotment</u>	Geographic <u>Coordinates</u> (N. Lat./W. Long.)	<u>Distance</u>	
			<u>Required Minimum</u> (km)	<u>Actual</u> (km)
n-15 (38)	None sufficiently close for concern ¹	---	Footnote 2	---
n-14 (39)	None sufficiently close for concern	---	Footnote 2	---
n-4 (49)	None sufficiently close for concern	---	32 ³	---
n-3 (50)	None sufficiently close for concern	---	32 ³	---
n-2 (51)	None sufficiently close for concern	---	32 ³	---

Note: n= Channel 53.

¹Station K38EB, Kingsville-Alice, TX, Ch. 38, had been listed as eligible for Class A licensing, but that eligibility has been rescinded.

²There is no specified minimum separation requirement, but protection must be afforded.

³The 32 km minimum separation requirement is applicable only if the Class A station employs effective radiated power greater than 50 kW. Otherwise, there is no taboo constraint.